

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF OKLAHOMA**

In re:)
)
CHAD W. RUSSELL,) **Case No. 14-13943**
) **(chapter 13)**
Debtor.)

**EX PARTE APPLICATION FOR ORDER DIRECTING
PAYMENT OF FUNDS INTO REGISTRY OF COURT CLERK**

Chad W. Russell, by and through his attorney, requests that this Court enter an order directing American Eagle Title Company (“American Eagle”) to pay a portion of the funds attributable to the sale of Debtor’s homestead into the Registry of the Bankruptcy Court Clerk for the Western District of Oklahoma and in support hereof states:

1. On March 2, 2015, this Court issued an order authorizing a sale of Debtor’s homestead located in Logan County, Oklahoma. The sale under that order is being closed through American Eagle Title Co., Guthrie, Oklahoma.
2. In preparing to close on the above sale, American Eagle requested that it be provided the amounts required to pay off the first and second mortgages against Debtor’s property from the respective mortgage holders. While Debtor does not contest the payoff amount provided by the first mortgage holder, a disagreement has arisen as to the amount required to pay off the second mortgage holder, The Alex P. Aven Grandchildren’s Partnership (“Aven”).
3. Aven and/or its attorneys believe it and/or its attorneys are entitled to payment of a certain amount of attorney fees as part of the sum required to pay off its mortgage. While Debtor understands Aven may be entitled to attorney fees beyond that granted it in a state court foreclosure conducted in Logan County, Oklahoma, he believes any attorney fees to be paid the second mortgage holder and its attorneys should be reviewed by this Court and paid only in accordance the Court’s order.
4. Aven and its attorneys have agreed to grant a release of the second mortgage and allow the proposed sale to be closed subject to American Eagle withholding and paying into the Registry of this Court’s Clerk the amount of \$13,412.41 to be held pending the attorneys filing an application for allowance of attorney fees and a subsequent order from the Court directing how such funds should be distributed.

Accordingly, Debtor requests that an order be issued directing American Eagle to withhold \$13,412.41 from the closing of sale of Debtor’s homestead and further directing it to pay such funds into the Registry of the Clerk of this Court and requiring the Clerk to hold such funds pending the further orders of this Court.

A proposed order granting the requested relief is attached hereto as Exhibit A.

Dated: March 11, 2015.

S/Gary L. Morrissey

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Certificate of Service

I hereby certify that on this 11th day of March, 2015, a true and correct copy of the foregoing Application was served by the ECF system of the clerk of this Court to John Hardeman, trustee, jhardeman@chp13okc.com; and Robert Rainey, Esq., robrainey@okclaw.com, attorney for Alex P. Aven trust.

S/Gary L. Morrissey

Gary L. Morrissey

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

In Re:

CHAD W. RUSSELL,

Debtor.

**Case No. 14-13943
Chapter 13**

**ORDER DIRECTING PAYMENT OF FUNDS INTO REGISTRY
OF BANKRUPTCY COURT CLERK FOR WESTERN DISTRICT OF OKLAHOMA**

The Ex Parte Application For Order Directing Payment of Funds Into Registry of Court Clerk (“Application”) filed by Chad W. Russell (“Debtor”), comes before the Court for consideration. The Court is advised that the Ex Parte Application was filed on March 11, 2015 and that the relief sought by the Application is agreed to by the Debtor and the only other affected party, The Alex P. Aven Grandchildrens Partnership, holder of the second mortgage on Debtor’s homestead, and its attorneys. The Court is further advised that Debtor’s attorney has not been able to speak to the chapter 13 trustee’s attorney to determine whether the trustee objects or agrees to the relief requested in the Application.

Accordingly, American Eagle Title Company as closing agent for the sale of Debtor’s homestead, is hereby directed to withhold from the proceeds of sale due to Debtor the amount of \$13,412.41 and to pay such funds to the Registry of the Court Clerk, U.S. Bankruptcy Court, Western District of Oklahoma.

All statements of fact contained herein are based on the representations of Debtor’s attorney.

IT IS SO ORDERED.

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Approved for entry:

S/Gary L. Morrissey

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